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Chiropractors. Unprofessional Conduct.

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PROPOSITION
44

**CHIROPRACTORS. UNPROFESSIONAL CONDUCT.
LEGISLATIVE INITIATIVE AMENDMENT.**



OFFICIAL TITLE AND SUMMARY

Prepared by the Attorney General

**CHIROPRACTORS. UNPROFESSIONAL CONDUCT.
LEGISLATIVE INITIATIVE AMENDMENT.**

- Amends Chiropractic Act to provide that, unless otherwise authorized, the employment of runners, cappers, steerers, or other persons to procure patients constitutes unprofessional conduct.
- Amends Chiropractic Act to require revocation of a chiropractor’s license to practice for ten years upon the second conviction, or multiple convictions, of specified insurance fraud offenses.
- Amends Chiropractic Act to require the State Board of Chiropractic Examiners to investigate any licensee who is the subject of specified charges unless the district attorney objects to the investigation.

**SUMMARY OF LEGISLATIVE ANALYST’S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT
FISCAL IMPACT:**

- Negligible additional state costs to implement the measure’s provisions.
- Potential state savings, of an unknown amount, in lower workers’ compensation and Medi-Cal costs.

FINAL VOTES CAST BY THE LEGISLATURE ON SB 1988 (PROPOSITION 44)

Assembly:	Ayes 63	Noes 13
Senate:	Ayes 40	Noes 0

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

The Chiropractic Act is a law that was adopted by the voters. Changes to the act require voter approval. Under the act, the Board of Chiropractic Examiners licenses and regulates chiropractors who practice in California. The board may impose discipline including license revocation for various acts of misconduct. The act makes it a misdemeanor for a person to violate its provisions. Conviction of a violation is subject to a fine or imprisonment in county jail, or both a fine and imprisonment.

Currently, there are about 15,000 licensed chiropractors in the state.

PROPOSAL

This measure requires the Board of Chiropractic Examiners to revoke for ten years the license of a chiropractor who is convicted for a second time, or is convicted of multiple counts in a single case, of various specified offenses, including insurance fraud. After the ten-year period, the chiropractor may apply to the board to reinstate his or her license. Currently, the board has discretion over which punishment to assess for the offenses covered by this measure. This punishment may or may not result in license revocation.

The measure further requires the board to investigate any licensed chiropractor who has been criminally charged with committing insurance fraud, if the district attorney does not object to the investigation. The measure also includes as “unprofessional conduct” the hiring of “runners” or other persons by chiropractors to procure patients, except as this practice is allowed by law.

This measure’s provisions currently apply to doctors.

FISCAL EFFECT

The Board of Chiropractic Examiners currently investigates all cases in which a criminal charge has been filed alleging insurance fraud by a licensed chiropractor, where the district attorney does not object. As a result, any additional costs to implement this measure would be negligible.

To the extent that the license revocation and investigation provisions of this measure act as a deterrent and reduce insurance fraud committed by chiropractors, there could be savings, of an unknown amount, to the state in lower workers’ compensation and Medi-Cal costs.

ARGUMENT IN FAVOR OF PROPOSITION 44

You should vote “yes” on Proposition 44 because insurance fraud is a crime against *all* of us. This proposition requires that the license of a chiropractor be suspended for 10 years if the chiropractor is convicted a second time of insurance fraud or related activities or if the chiropractor is convicted a first time of multiple counts of insurance fraud or related activities. It also requires the Chiropractic Board to investigate chiropractors alleged to have committed insurance fraud, if the district attorney does not object to the investigation. A district attorney would not object unless a Board investigation interfered with a criminal investigation.

This initiative was placed on the ballot through a unanimous vote of the State Senate and an overwhelming, bipartisan vote of 63–13 in the State Assembly. Its provisions were the outgrowth of testimony from numerous witnesses, including one hooded witness, who appeared before the State Senate Insurance Committee in November 1999, and subsequent hearings in the Legislature. Testimony centered on the way in which insurance fraud is committed, how it can finance other types of criminal activity, and on the costs of fraud to all of us. The reform package created new penalties for chiropractors, doctors and attorneys. The provisions related to doctors and attorneys have already become law. However, amendments to the Chiropractic Act are required to be approved by the voters before becoming law, and this is why the Legislature placed this proposition on the ballot.

Estimates of the annual cost of insurance fraud vary, but when fraud in workers’ compensation, Medi-Cal, auto, home, health and life insurance are considered, the costs to us all could easily exceed hundreds of millions, and perhaps several billions of dollars annually. High auto insurance costs, higher taxes, and unaffordable health insurance or workers’ compensation insurance are just a few of many reasons that insurance fraud is bad for us all.

Obviously, the costs of fraud noted above are not, by any means, solely due to chiropractors. In fact, most chiropractors operate lawfully and provide valuable care to their patients. Some do not. If you are concerned about the quality of chiropractic care and the cost of all types of insurance that covers chiropractic care, vote “yes” on Proposition 44. It is a small part of the larger reform measure that already changed the penalties for insurance fraud committed by other professionals. Voting “yes” on this proposition means voting “no” on chiropractic insurance fraud, and voting “yes” for all of us who need affordable insurance and quality chiropractic care.

JACKIE SPEIER

State Senator

GORDON SPENCER, *President*

California District Attorneys Association

No Rebuttal to the Argument in Favor of Proposition 44 was filed.

ARGUMENT AGAINST PROPOSITION 44

Insurance fraud is a growing crime that raises our insurance premiums and causes insurance companies to be suspicious of legitimate claims. However, the punishment must fit the crime.

A chiropractor who defrauds insurance companies should have to pay restitution and punitive damages. Proposition 44 wants to take a chiropractor's license away for 10 years. We disagree.

Financial dishonesty has nothing to do with medical skill. The only good reason to stop someone from being a chiropractor is if patients have been harmed by incompetent treatment. A person has the right to earn a living, and a trained professional can earn a very good living—enough to pay back any of his fraud victims.

We also disagree that the use of “runners” and “cappers” (ambulance chasers) to obtain patients should be considered unprofessional conduct—though it is distasteful. Not that long ago, doctors and lawyers weren't even permitted to

advertise their services. We believe that any business or profession has the right to solicit business without force or fraud. This provides more choices to consumers.

California's state government licenses far too many professions—from barbers to funeral directors to guide dog trainers. It should be up to fully-informed consumers to decide whose goods and services to use—without interference from state bureaucrats.

Let's not add more burdens on a chiropractor's right to earn a living or peoples' right to choose their own chiropractor. Vote NO on Proposition 44.

TED BROWN

Insurance Claims Investigator

DALE F. OGDEN

Insurance Consultant/Actuary

ED KUWATCH, *Chairman*

Libertarian Party of Mendocino County

REBUTTAL TO ARGUMENT AGAINST PROPOSITION 44

Opponents are flat wrong. Proposition 44 is simple. Insurance fraud is costing all of us a lot of money in increased premiums. When professionals defraud, they should be held accountable. The Legislature has imposed stiff penalties on doctors and lawyers who are convicted twice of fraud. Chiropractors should be treated no differently.

You may ask why if the Legislature has acted and the Governor signed a law on this subject do the voters have to specifically confirm similar enforcement procedures on chiropractors? The answer is that the chiropractors succeeded in passing an initiative on the ballot eighty years ago to create their “practice act.” The act requires that any amendments to this act must be subsequently passed by the voters.

California licenses professionals because consumers demand protection. A chiropractic patient deserves honest, competent care, and Proposition 44 creates a level playing field where honest, competent chiropractors can practice free from those who damage patients and the profession.

Proposition 44 protects *you*. Please join the California District Attorneys Association, and those who want affordable insurance and honest, competent chiropractic care. Vote “yes” on Proposition 44.

JACKIE SPEIER

State Senator

GORDON SPENCER, *President*

California District Attorneys Association



PROPOSITION 44

This law proposed by Senate Bill 1988 of the 1999–2000 Regular Session (Chapter 867, Statutes of 2000) is submitted to the people in accordance with the provisions of subdivision (c) of Article II of Section 10 of the California Constitution.

This proposed law adds sections to the Business and Professions Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SEC. 5. Section 1003 is added to the Business and Professions Code, to read:

1003. (a) *Except as otherwise allowed by law, the employment of runners, cappers, steerers, or other persons to procure patients constitutes unprofessional conduct.*

(b) *A licensee of the State Board of Chiropractic Examiners shall have his or her license to practice revoked for a period of*

10 years upon a second conviction for violating any of the following provisions or upon being convicted of more than one count of violating any of the following provisions in a single case: Section 650 of this code, Section 750 or 1871.4 of the Insurance Code, or Section 549 or 550 of the Penal Code. After the expiration of this 10-year period, an application for license reinstatement may be made pursuant to subdivision (c) of Section 10 of the Chiropractic Act.

SEC. 6. Section 1004 is added to the Business and Professions Code, to read:

1004. *The State Board of Chiropractic Examiners shall investigate any licensee against whom an information or indictment has been filed that alleges a violation of Section 550 of the Penal Code or Section 1871.4 of the Insurance Code, if the district attorney does not otherwise object to initiating an investigation.*



PROPOSITION 45

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure expressly amends the California Constitution by adding sections thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENT OF ARTICLE II

SECTION 1. Preamble

Term limits have reinvigorated the political process by promoting full participation and bringing a breath of fresh air to California government. The people recognize that in some instances a few specially skilled and popular lawmakers have been unable to complete important legislative programs for their districts before they must leave office. In recognition of these special cases, the people of California seek an opportunity by petition to extend some specific district representatives' terms in office by a maximum of four years.

SEC. 2. Section 21 is added to Article II of the California Constitution, to read:

SEC. 21. *Local Legislative Option. Local legislative option is the power of the voters residing in an Assembly or Senate district to exercise an option to allow their term-limited state legislator to stand for re-election for an extended term(s) in office, not to exceed a total of four years, notwithstanding Article IV, Section 2(a) of this Constitution.*

(a) *Local legislative option may be exercised only one time per lawmaker.*

SEC. 3. Section 22 is added to Article II of the California Constitution, to read:

SEC. 22. (a) *Exercise of the local legislative option is initiated by delivering to the Secretary of State a petition invoking the right of the people to re-elect a legislator who would otherwise be ineligible for re-election by reason of Article IV, Section 2(a).*

Proponents have 90 days to circulate petitions and must submit petitions for verification at least 30 business days prior to the first day candidates may file declarations of intention to become a candidate for legislative office.

(b) *A petition invoking local legislative option must be signed by electors of the district equal in number to 20 percent of the ballots cast for that office in the last general election for which the local legislative option is sought.*

(c) *Only electors registered to vote in the district in which the legislator is serving at the time the petition is filed, or following a redistricting, in the district in which the local legislative option is sought, may sign the petition.*

(d) *Legislators permitted to run under this section may run only in the district in which they are currently serving, or if that district is changed pursuant to redistricting, then in the successor district whose lines include the larger portion of the former district.*

(e) *Local voters may exercise this option to extend the time that a legislator would otherwise be permitted to serve by a period of four years.*

(f) *The petition must be in substantially the following form:*

We the undersigned registered voters of the ___ Assembly [or Senate] district hereby invoke our right pursuant to Article II, Section 21 of the California Constitution to vote for or against [here list the legislator by name] at the next election(s) for that office, but not to exceed a total of four years. Our reasons are as follows: [here set forth reasons in no more than 200 words]

(g) *Petitions shall be submitted to local election officers who shall certify the signatures to the Secretary of State in the same fashion as initiative petitions are certified. As soon as sufficient valid signatures are certified, the Secretary of State shall so advise local election officials, who shall place the name of the certified legislator on the ballot in the same fashion as if he or she were not subject to Article IV, Section 2(a).*